



FEMA's Disaster Housing "Strategy:"

STILL PASSING THE BUCK, NEARLY THREE YEARS AFTER KATRINA & RITA

An Analysis by the Majority Staff of
the Subcommittee on Disaster Recovery's
Post-Disaster Housing Investigation

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Introduction

The 2006 Post Katrina Emergency Management Reform Act (PKEMRA), which became law on October 4, 2006, required the Federal Emergency Management Agency (“FEMA”) to create and provide to Congress a National Disaster Housing Strategy by July 1, 2007, in order to help plan and protect the nation against future catastrophes. This long overdue Strategy has been formally provided to Congress a full year after it was due under PKEMRA. Regrettably, the Strategy violates two-thirds of its legal requirements and in doing so fails in the planning needed to protect our nation.

The law required that FEMA’s Administrator “develop, coordinate, and maintain a National Disaster Housing Strategy” with “the most efficient and cost effective Federal programs...clearly defin[ed] role[s]...describe[ing] in detail the programs that may be offered” to meet short-term and long-term housing needs in a major disaster. 6 U.S.C. § 772. On page 74 of its 88-page plan, FEMA’s ultimate conclusion is that “To accomplish this, we must establish a standing National Disaster Housing Task Force.” Thus, the Strategy presented by FEMA--almost two years after the passage of PKEMRA and thirteen months after FEMA failed to meet the PKEMRA deadline for submission to Congress--proposes to outsource all major strategic planning to an entity that does not yet exist. Of the nine requirements set forth in Sections 772(a) and (b) of the law requiring this Strategy, FEMA seeks to ask this proposed Task Force to accomplish at least six of them.

Simply put, FEMA has taken twenty months to report that a new entity should be created to develop the strategic plan that Congress required of FEMA in PKEMRA. In its July 21 congressional briefing, FEMA took the position that there is a difference between a “strategy” and a “plan”, and in the Strategy FEMA takes the position that all it has to do is provide “a Strategy written in broad terms to provide the Task Force the opportunity to explore a broad range of ideas . . .” (page 76). FEMA’s semantic distinction between strategies and plans does not comply with PKEMRA, which expressly requires “plans” and clearly contemplated the preparation of an integrated, comprehensive action plan by FEMA that can be implemented and used when a disaster hits. What FEMA has done instead is reassign its PKEMRA duties to the Task Force. Moreover, gaps in the Strategy suggest that FEMA has not reacted to many of the problems exposed by its tragically flawed response to Katrina and Rita. Here is a summary analysis of eight key specific failings in the FEMA Strategy:

1. FEMA is reassigning six of its legal strategic planning obligations under PKEMRA to the Task Force.

- a. ***Cross-organizational strategy development, Sec. 772(a):*** This section is the general provision that requires FEMA to coordinate across agencies, governmental levels and organizations to develop and maintain a Strategy. FEMA now proposes a Task Force comprised of a collection of representatives from these entities (page 75) and wants the Task Force to develop an “implementation plan that must be developed collaboratively”. It is worth asking why FEMA waited 20 months to propose to assemble a cross-organizational

strategic planning effort, because Congress effectively authorized this when it passed PKEMRA in 2006.

FEMA could have put together the Task Force it now seeks in October of 2006, and had it done so there might well be a usable disaster housing plan today instead of more delay.

- b. ***Identify programs that meet short term and long term post-disaster housing needs, Sec. 772(b)(1):*** This section requires FEMA to outline the most efficient and effective federal programs that “will” best meet short term and long term housing needs. This is clearly a call for planning for the future on short term and long term needs, not just a list of current programs on these needs. But FEMA leaves the short term and long term planning to the Task Force, stating that the Strategy points to “future directions for sheltering, interim housing and long term housing for which the Task Force will need to develop specific action plans (page 76) and that it is up to the Task Force to develop a plan which will include “a list of disaster housing options for the various phases (sheltering, interim and long term)” (page 77). Six pages of the Strategy review what the Task Force would plan on the short term housing question of shelter (pages 34-40), five pages review what the Task Force would plan on interim housing (pages 52-57), and four pages review what FEMA the Task Force would plan on the long term housing issue of permanent housing (pages 69-73). **Again, the FEMA Strategy on short term and long term needs is not strategic planning, it is a hand off of this planning to a Task Force.**
- c. ***Clearly Define Roles, Programs and Responsibilities of Disaster Housing Responders, Sec. 772(b)(2):*** This Section requires FEMA to define the roles, programs, authorities and responsibilities of six federal agencies, state, local and tribal governments, and the Red Cross. This is done generally, but without much clarity, in the Strategy.

FEMA wants the Task Force to do the careful cross organizational planning, stating that the Task Force must develop an operational plan that describes “specific roles and responsibilities and the actions each player must take to execute effective disaster housing operations across all levels of government, non-governmental organizations and the private sector”(page 77).

- d. ***Funding, Shared Responsibilities and Cooperation, Sec. 772(b)(3):*** This section calls on FEMA to outline funding issues, detail how responsibilities will be shared, and address other matters regarding cooperation among the various disaster housing responders.

On funding, FEMA delegates this to the Task Force, stating that “the Task Force should identify funding and staffing requirements to support the Strategy and identify how these needs can be met through existing programs and through expanded partnerships . . .” (page 80).

On cooperation and shared responsibilities, FEMA assigns this to the Task Force, stating that: “the Task Force should also identify which organizations are best positioned to lead each action, as well as which organizations will play key supporting roles” (page 76); that the Task Force is to “outline a range of disaster housing partnership arrangements between the State and Federal Governments and non-governmental organizations” (page 77); and that the Task Force is to work on “cooperation among all disaster housing stakeholders, including all levels of government, the private sector and nongovernmental organizations.” (page 79).

- e. ***Housing Assistance to the Disabled and those with Special Needs, Sec. 772(5):*** This section requires FEMA to describe programs directed to those with special needs and to ensure sufficient number of units for the disabled. Again, the unique problems facing those persons are referred to in the Strategy (page 3, 6, 22) but they are not planned for as required by PKEMRA. In fact, there is nothing in the Strategy that ensures that all disabled persons will be housed. Instead, the Strategy passes this statutory obligation to provide for the disabled to States, and even then all that is required is for State-level task forces to “provide advice” on housing the disabled. (page 81). FEMA leaves planning for other “special needs populations” to the Task Force. (page 80).
- f. ***Planning for clusters of housing and access to services, Sec. 772(b)(6):*** This section requires FEMA to describe plans for clusters of housing, including in those plans site management, security, and access of residents of such sites to services. FEMA has assigned the Task Force this responsibility, calling for the Task Force to build the “capacity to plan, install and manage interim housing group sites” including the questions of “public works, government services . . . and project management” (page 79).

In addition to failing to meet PKEMRA, the Strategy is deficient because **FEMA is requiring the Task Force to do the real planning.** FEMA expects this Task Force, once it is created, to develop 1) an implementation plan in six months (page 74), 2) a detailed operational plan in nine months (page 75), and a catastrophic disaster housing plan at an unspecified time (page 76). If the Task Force is to develop implementation, operational and catastrophic plans, **what planning is left for FEMA and what planning has FEMA been doing in developing its Strategy?**

Clearly, the Strategy is not much more than a collection of generalized problems associated with housing – a restatement of the Congressional instruction in PKEMRA to develop a strategic plan, a laundry list of existing programs without any real plan for integrating or improving them, and a reassignment of these critical planning, integration and implementation duties to the putative Task Force. Finally, in view of the fact that it has taken FEMA twenty months *not* to develop a single plan, it should be asked whether a Task Force can develop two plans requiring far more detail and logistical preparation in the nine months allotted by FEMA.

2. FEMA's delays have postponed preparation of a real plan.

FEMA's Strategy is over a year overdue and, now that it is finally here, turns out to be a handoff of disaster housing strategic planning to a Task Force. Even if FEMA's recommendations are followed, it will take time to form a Task Force and months, even by FEMA's projections, before the Task Force can create the actual plans that governments and individuals can finally look to for real housing assistance after a disaster.

3. Trailers are still part of FEMA's Housing Strategy in extraordinary disasters.

The colossal failure of trailers after Katrina and Rita has still not convinced FEMA to stop using them. Although FEMA Administrator Paulison promised Congress in April that FEMA "was never going to use trailers again," FEMA breaks that promise in the Strategy. Trailers will remain an option upon state request in "extraordinary disaster conditions, when no other form of interim housing is available" (page 51), which means trailers will often be an option because interim housing is generally unavailable after many disasters.

While FEMA claims trailer use will be limited, it is a legitimate possibility that trailers will become, as they were under Katrina and Rita, the default housing option FEMA will be forced to use because the Agency has not planned sufficiently to replace them.

If FEMA has explored other options, and considered that they are better, more cost effective, and usable on a large scale, this is not clear from the Strategy, which mentions alternatives such as the Katrina Cottages but does not specify what FEMA has done to actually replace trailers with these alternatives.

4. Unrealistic burdens on individuals.

The Strategy repeatedly emphasizes the need for citizens to prepare and insure themselves. Of course this is good advice, but the aftermath of the 2005 hurricanes shows that some disasters simply cannot be sustained by even the best prepared individuals. The FEMA Strategy does not account for what happens when, as in Katrina and Rita, many individuals who played by the rules are improperly denied insurance payments or have to wait long periods for them. Further, the Strategy instructs that "households must be responsible partners by . . . staying in contact with the government agency managing their housing". (page 45). This ignores that FEMA's own administrative incompetence after the 2005 storms and subsequent flooding made it impossible for hundreds of thousands of citizens to make contact with the agency.

5. Failure to acknowledge limits, and FEMA imposed burdens, on state and local governments.

The Strategy is premised on the philosophy that state and local governments have the primary governmental responsibility for post-disaster housing, even going so far as to instruct the Task Force to-be that it “must build on the fundamental principle that the State is ultimately responsible for providing housing to its residents.” (page 77). There is no question that this state and local centered philosophy does not work for dealing with a Katrina-like catastrophe that overwhelms state and local governments and displaces mass numbers of people across a number of states.

Moreover, FEMA’s Strategy ignores what should be another lesson learned from Hurricanes Katrina and Riata. FEMA’s own flawed public assistance to state and local governments interfered with, and sometimes blocked, those governments’ capacity to clean debris, restore sewer and water services, rebuild civic infrastructure and retain employees needed to provide services necessary for individuals to return to their homes. Yet FEMA states in its Strategy that “local governments are responsible for . . . inspections and permits, and providing basic services such as water and sewer, trash pickup, public transportation, police and fire service.” (pages 63).

After the 2005 hurricanes, many local governments could not do these things because their infrastructure was decimated and FEMA’s public assistance required them to pay first, and wait for reimbursement, or provide partial payment, in order to do critical repairs. **These FEMA obstacles to state and local government operation must be removed, not ignored, as part of any realistic housing strategic plan.**

6. The Strategy does not call for reform of the Stafford Act or more flexible FEMA interpretation of the Act.

The federal statute that enables FEMA’s post-disaster response, including on housing, is the Stafford Act. This law has been criticized as a poor framework for responding to large disasters, with the critics including FEMA Administrator Paulison, who in April told Congress that the Act was too restrictive for responding to catastrophes like Katrina and Rita and the failure of the federal levee system. There have also been many criticisms of FEMA for inflexibly interpreting the Act in ways that obstructed assistance. Despite the fact that the Act is a major impediment to post-disaster housing recovery, FEMA states that its Strategy is based on the Stafford Act and does not alter its existing authorities. (page 7).

7. Inadequate Emergency Shelter Plans.

The Strategy suggests that emergency shelter capacity has improved, which is welcome news. However, the Strategy makes clear that FEMA has not planned sufficient shelter improvements to house large numbers of people in a catastrophic disaster. Among other

shortcomings, FEMA admits that “the disaster housing community does not have a comprehensive national shelter information system” (page 35), that “a national planning effort must be undertaken to address sheltering in the aftermath of catastrophic events” (page 39), and that “catastrophic shelter plans will require even stronger coordination with State and Federal officials” (page 39). Correcting these emergency shelter problems falls squarely within FEMA’s legal obligation to outline programs that will best meet short term housing needs. 6 U.S.C. 772(b)(1). Yet FEMA leaves shelter planning undone and instead delegates it to the Task Force (pages 34-40, 76, 77-78).

8. No Rental Repair Plan.

The lack of affordable rental housing was, and continues to be, a primary reason that tens of thousands of citizens had no place to go after Katrina or Rita. In PKEMRA Congress instructed FEMA to correct this, stating that FEMA was to “describe plans for promoting the repair and rehabilitation of existing rental housing . . . in order to improve the provision of housing to individuals.” 6 U.S.C. 772(b)(7).

FEMA’s Strategy acknowledges the problems faced by renters (page 67) but offers no plan as required by PKEMRA to repair and rehabilitate rental housing. FEMA’s sole concrete rent assistance proposal is to formalize its partnership with HUD under the Disaster Housing Assistance Program (DHAP). (page 55). While expansion of this post-Katrina pilot program is positive, DHAP was a plan for subsidizing rent and locating landlords, not a plan for increasing rental stock through repair and rehabilitation.

There is some identification of HUD and other programs designed to assist renters and low income public housing assistance recipients (pages 16-17, 46). There is a general recognition of the need to “deconflict the implementation of various legislative authorities existing throughout the federal government”, (page 56) but no specific conflicts are identified for correction. There is a list of legislative changes that *could* allow FEMA to provide more rental support (page 68), but no explanation of whether and how FEMA *has* used this authority to provide more rental assistance.

Again, the Strategy offers no more than generalized problem recognition and listing of existing programs, and falls far short of the detailed planning called for in PKEMRA and required to improve the existing deficiencies in post-disaster rental assistance. A burden is placed on individuals, as the Strategy states that “renters are responsible for seeking out available replacement rental housing in the community” (page 59), ignoring FEMA’s own recognition that after a disaster rental housing is often the most difficult to find.

Conclusion

Perhaps the most glaring failure of FEMA’s Housing Strategy is that, almost three years after Hurricanes Katrina and Rita, FEMA leaves this nation with no catastrophic housing plan. FEMA’s delegation of this critical national security responsibility to the Task Force

proves that FEMA has not developed a national catastrophic disaster housing strategy. Given the terrible human costs of FEMA's ad hoc housing assistance after the catastrophic 2005 storms, and the enormous potential losses our nation would sustain if we are not prepared to house citizens when a similar disaster occurs, the development of such a strategy for dealing with a catastrophe of a similar or worse scope should have been a top priority for the Agency. Instead, FEMA makes it an assignment without a deadline delegated to a nonexistent Task Force. There is little consideration of use of military capacity in the event of mass population displacement.

It is not clear from FEMA's strategy if and when the United States will have a catastrophic disaster housing plan and who will develop one. The only thing that is clear today is that the nation does not have a catastrophic disaster housing plan now. This is unacceptable.